

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
FRANCISCO JAVIER CASABLANCA TORRES,

Plaintiff,

-against-

21-cv-10832 (LAK)

THE CITY OF NEW YORK, et al.,

Defendants.
----- X

ORDER

LEWIS A. KAPLAN, *District Judge*.

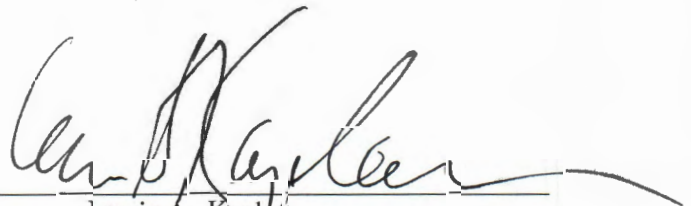
The plaintiff in this case alleges that he was arrested and beaten by New York City police officers on June 3, 2020. His first amended complaint regarding this incident nevertheless fills 74 pages and 357 paragraphs and contains nine claims for relief. Defendants have moved to dismiss it. Plaintiff has responded with, *inter alia*, a declaration of his counsel, twenty-seven exhibits, and – commendably – the withdrawal of a number of his claims. In an effort to simplify consideration of the motion, the Court makes the following rulings while retaining *sub judice* what remains of the motion.

1. Plaintiff's (a) claims against defendants de Blasio, Shea and Monahan, (b) his facial First Amendment-based challenges to the so-called Curfew Orders, (c) his federal malicious prosecution claim, (d) his federal Equal Protection-based claims related to the Curfew Orders including those premised on a selective enforcement theory only, (e) his claims based on a due process-based facial challenge to the Curfew Orders, and (f) his negligent hiring and supervision claims under New York law, all of which he has withdrawn (Oliver Decl. (Dkt 56) ¶ 31), are dismissed.

2. Under principles recently summarized in *SEC v. Medallion Financial Corp.*, No. 21-cv-11125 (LAK), 2022 WL 3043224 (S.D.N.Y. Aug. 2, 2022), the Court excludes from consideration on this motion all materials outside the first amended complaint (save any that, on further consideration, it determines to have been incorporated by reference or otherwise properly considered, which it will consider only for purposes permissible under those principles). It declines to convert this motion into one for summary judgment. *See* Fed. R. Civ. P. 12(d).

SO ORDERED.

Dated: September 28, 2022



Lewis A. Kaplan
United States District Judge